

UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF NORTH CAROLINA  
DURHAM DIVISION

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In re:  
Elenita Utley,

Bankruptcy Case No.: 10-82300

Soc. Sec. Nos. xxx-xx-2459 & xxx-xx-6333  
Mailing Address: 1608 Nixon Street,  
Durham, NC 27707-

Debtors.

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Elenita Utley,

Plaintiffs, A.P. No.: 11-9043

**Household Realty Corporation, and/ or  
Household Finance Corporation**

Defendant.

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**COMPLAINT TO VALUE COLLATERAL  
AMENDED**

The Plaintiffs, above-named, respectfully allege as follows:

1. That this matter is a core proceeding pursuant to 28 U.S.C. Section 157, and that the court has jurisdiction pursuant to 28 U.S.A. Sections 151, 157 and 1334.
2. This Complaint was filed, pursuant to 11 U.S.C. 506, and in accordance with Bankruptcy Rule 7001, to value their residence for the purpose of determining the secured status of the mortgage claim held by Household Realty Corporation and or Household Finance Corporation.
3. The Plaintiffs are filed this bankruptcy case on December 21, 2010 seeking protection under Chapter 13 of Title 11 of the United States Code.
4. The Defendant Household Realty Corporation and/or Household Finance Corp.. is a corporation and/or a partnership with an office and principal place of business located at 4201 University Drive, Durham, NC 27707- and/or Post Office Box 8633, , Elm Hurst, IL 60126- .This Court has jurisdiction over this adversary proceeding pursuant to 28 U.S.C. Section 157 and 1334 and 11 U.S.C. Section 506.
5. The Plaintiffs own real property located at 1608 Nixon Street, Durham, NC 27707. The legal description of the property is as follows:

Southeast corner of lot No. 12, running thence with the line of said lot n 12 deg. 03' East 154 feet to a stake in the south property line of Nixon Street; thence along the south property line of said street and along the arc of a circle to the left with a radius of 236.68 feet in an eastern direction 70 feet to the beginning.

The tax map or parcel ID No. is: 132778

6. American General holds a first Deed of Trust on such property with an payoff balance, as of the date this case was filed in the amount of approximately \$71,330.00. This Deed of Trust originally given to and held by Equity One , Incorporated D/B/A Equity One Mortgage Services, Inc. This Deed of Trust was recorded on 3/11/08 in Book 5893 at Page 651, Durham County Registry of Deeds.
7. United Guaranty Residential Insurance Company holds a second Deed of Trust on such property with a payoff balance, as of the date this case was filed in the amount of approximately \$19,738.97. This Deed of Trust originally given to and held by Bank of America. This Deed of Trust was recorded on June 12, 2000, in Book 2850 at Page 43, Durham County Registry of Deeds.
8. Household Realty Corporation and/or Household Finance Corp. holds a third Deed of Trust on such property with a payoff balance, as of the date this case was filed in the amount of approximately \$18,599.09. This Deed of Trust was recorded on 1/31/01 in Book 2992 at Page 43, Durham County Registry of Deeds.
9. The fair market value of the said property is not greater than \$63,908.00.
10. Pursuant to 11 U.S.C. 506 of the Bankruptcy Code and In re: Kidd, 161 B.R. 769 (Bankr. E.D.N.C. 1993), the loan with Household Realty Corp., and/ or Household Finance Corporation secured by a second Deed of Trust against the Plaintiffs' said property, is an unsecured claim. In turn, pursuant to 11 U.S.C. 506(d), the lien securing said loan is void.
11. The original complaint filed in this case mistakenly listed Defendant as holding the second Deed of Trust.
12. No answer had been filed to the original Complaint.

WHEREFORE, the Plaintiffs pray the Court find that said claim held by Household Realty Corporation and/or Household Finance Corp., on which is secured by a second Deed of Trust upon said property, to be wholly unsecured, and that said claim should therefore be classified an unsecured claim for the purpose of this Chapter 13 case. The Plaintiffs further pray that the Court order Household Realty Corporation and/or Household Finance Corp.. to cancel the said Deed of Trust forthwith upon the completion of the Plaintiffs' Chapter 13 plan and the granting of the Plaintiffs' discharge, and that the Court grant such other and further relief as to the Court seems just and proper.

Dated: July 6, 2011

LAW OFFICES OF JOHN T. ORCUTT, P.C.

/s Edward Boltz

Edward Boltz

Attorney for the Plaintiffs

North Carolina State Bar No.: 23003

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